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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 DANIEL GONZALEZ,
12 Plaintiff,
13 v.
14 TARGET CORPORATION,
15 Defendant.
16

Case No. LA CV 22-09089 JAK (PVCx)

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE
(DKT. 29)**

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18 Pursuant to 28 U.S.C. § 636, the Court has reviewed Plaintiff's Motion for
19 Sanctions (Spoliation of Video Footage and Failure To Disclose Percipient Witness), all
20 the records and files herein, and the Report and Recommendation of the United States
21 Magistrate Judge. The time for filing Objections to the Report and Recommendation has
22 passed and no Objections have been received. Accordingly, the Court accepts and adopts
23 the findings, conclusions, and recommendations of the Magistrate Judge subject to the
24 changes reflected in this Order as to the jury instruction that may be used at a trial of this
25 action.

26 IT IS ORDERED that Plaintiff's Motion for Sanctions (Dkt. Nos. 29, 39) is
27 GRANTED, and Defendant is SANCTIONED through the following adverse jury
28 instruction to be used at trial; provided, however, modifications to the instruction may be

1 adopted at the time of the Final Pretrial Conference so that the instruction conforms to any
2 further developments during the pretrial proceedings:

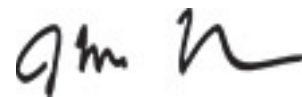
3 Target failed to prevent the destruction of potentially relevant video footage
4 that Mr. Gonzalez could have used in this case. This is known as the
5 “spoliation of evidence.” Evidence is relevant if it would have clarified a
6 fact at issue in the trial and would have been introduced into evidence. In
7 this case, the destroyed video footage may have been favorable to Mr.
8 Gonzalez. Whether this finding is important to you in reaching a verdict in
9 this case is for you to decide. You may choose to find it determinative,
10 somewhat determinative, or not determinative in reaching your verdict.
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12 You may also consider whether Target intentionally, as opposed to
13 unintentionally, failed to prevent the destruction of the video footage. If you
14 decide that Target did so intentionally, you are permitted to decide that the
15 footage would have been unfavorable to Target and favorable to Mr.
16 Gonzalez.
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18 The Clerk of the Court is directed to serve copies of this Order on counsel for
19 Plaintiff and on counsel for Defendant.
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21 IT IS SO ORDERED.
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23 DATED: February 13, 2024
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25 JOHN A. KRONSTADT
26 UNITED STATES DISTRICT JUDGE
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